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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,265	03/10/2004	Michael J. Calleja	8625	5356

7590 12/09/2005
Robert Charles Hill
235 Montgomery Street #821
San Francisco, CA 94104

EXAMINER

DOOLEY, JAMES C

ART UNIT PAPER NUMBER

3634

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,265

Applicant(s)

CALLEJA, MICHAEL J.

Examiner

James C. Dooley

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/10/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 1 is objected to because of the following informalities: --said-- should be inserted before "frontal." Appropriate correction is required.

Claim 3 is objected to because of the following informalities: Claim 3 is dependent from claim 1. For the purpose of examination claim 3 will be assumed to be dependent from claim 2. Otherwise, there is a lack of antecedent basis for "the means for attaching".

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: The relationship a bay divider to more than one bay. Bays have not been set forth in claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-6, 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cole (US Patent No. 4,981,225). Cole discloses a restraining cable and rack system featuring:

- a. A plurality of M-shaped material bay divider (M-shape formed by bracing members between posts 20 and 22).
- b. A vertical bar (30) attached to frontal lobes (20)
- c. A series of anchors in the vertical bar (43, 45)
- d. A restraining cable (48) spanning multiple bays (3 bays shown in figure 1, disposed between dividers described in "a" above)
- e. A means for attaching the cable to the vertical bar (eyebolt 46)
- f. A cantilever backing frame (22,28)

The cantilever frame is seen as comprising an upright member (22), an extension member (28), and a plurality of horizontal beams disposed between post 22 and lobe 20.

Cole does not show the restraining cable (48) passing through the slots and holes (43) of intermediate vertical bars (40). However, it is clear that the slot and holes allow for the cable to pass through.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 7-8, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cole alone. Cole discloses a means for attaching the restraining cable to the vertical bar using eyehooks. With respect to claim 3, Cole does not teach using snap hooks. Snap hooks, are a well-known restraining means, often found in combination with safety and restraining equipment. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to replace the eyehooks of Cole with snap hooks. Cole did not have a motivation to provide a quick release means for his restraining cable. Motivation to use a snap hook would be obvious if a quick disconnect were required.

With respect to claims 7, Cole discloses a rack made from a standard bar stock which can be readily purchased at a number of retailers. The rack of Applicant is also seen as being made from a standard U-Channel section, which would be available at the same retailers. The motivation for using a bar stock compared to U, L, or T shaped profiles is question of strength requirements, weight limitations, and cost. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to modify the invention of Cole to replace the Bar with a U-channel construction. The

motivation to use a U-channel would be to save costs and weight when the extra strength of a bar is not needed.

With respect to claim 8, punching and drilling are known to be the standard methods of forming apertures in metal.

With respect to claim 12, Cole teaches a restraining cable and rack system where a restraining cable spans more than one bay. Cole does not show a means for lacing the cable on intermediate bays. It is clear that the slot and holes (43,45) of bar (30) allow for the cable to pass through. In the disclosure of Cole it is shown that all frontal lobes (20) are identical. Therefore a vertical bar (30) is capable of being mounted to any intermediate lobe. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to modify the restraining system of Cole to include lacing the cable through intermediate vertical bars. The motivation would be to provide extra strength and reduced displacement if the cable were pulled taught.

Conclusion

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

g. Anderson (US 3,385,451) teaches a similar display rack having a safety restraining means.

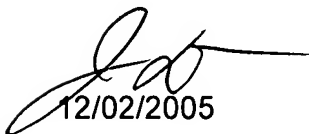
h. Ramey (US 5,111,943) teaches a very similar display rack without a safety restraining means

- i. Denny et al. (US 6,609,621) teach a display rack with a restraining cable where the cable is held by snap hooks.

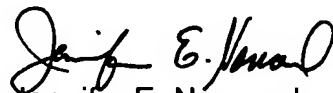
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Dooley whose telephone number is 571-2721679. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



12/02/2005



Jennifer E. Novosad
Primary Examiner
Art Unit 3634